

**SUPREME COURT MINUTES
TUESDAY, FEBRUARY 5, 2013
SAN FRANCISCO, CALIFORNIA**

S022998**PEOPLE v. TOWNSEL
(ANTHONY LETRICE)**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender C. Delaine Renard's representation that she anticipates filing the reply brief by June 27, 2013, counsel's request for an extension of time in which to file that brief is granted to April 5, 2013. After that date, only two further extensions totaling about 83 additional days will be granted.

S080276**PEOPLE v. NG (CHARLES
CHITAT)**

Extension of time granted

Good cause appearing, and based upon counsel Eric S. Multhaup's representation that he anticipates filing the appellant's reply brief by June 8, 2013, counsel's request for an extension of time in which to file that brief is granted to April 8, 2013. After that date, only one further extension totaling about 60 additional days is contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S105876**PEOPLE v. SUAREZ
(ARTURO JUAREZ)**

Extension of time granted

Good cause appearing, and based upon counsel Lisa R. Short's representation that she anticipates filing the appellant's opening brief by June 15, 2013, counsel's request for an extension of time in which to file that brief is granted to April 2, 2013. After that date, only two further extensions totaling about 100 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S105908**PEOPLE v. GHOBRIAL
(JOHN SAMUEL)**

Extension of time granted

Good cause appearing, counsel's request for an extension of time in which to file the appellant's reply brief is granted to April 5, 2013. The court anticipates that after that date, only two further extensions totaling about 120 additional days will be granted. Counsel is ordered to inform his or her supervising attorney, if any, of this schedule, and to take all steps necessary to meet it.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S117235**LEWIS, JR., (ROBERT) ON
H.C.**

Extension of time granted

On application of parties and good cause appearing, it is ordered that the time to serve and file the parties' exceptions to the report of the referee and simultaneous briefs on the merits is extended to April 2, 2013. After that date, only one further extension totaling about 15 additional days will be granted. Responses, if any, must be served and filed no later than 30 days thereafter.

S122611**PEOPLE v. STESKAL
(MAURICE GERALD)**

Extension of time granted

Good cause appearing, and based upon counsel Gilbert Gaynor's representation that he anticipates filing the appellant's opening brief by August 17, 2013, counsel's request for an extension of time in which to file that brief is granted to April 2, 2013. After that date, only three further extensions totaling about 140 additional days will be granted.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S124131**PEOPLE v. BARRETT
(JOSEPH ANTHONY)**

Extension of time granted

Good cause appearing, and based upon counsel Lisa M. Romo's representation that she anticipates filing the appellant's opening brief by March 4, 2013, counsel's request for an extension of time in which to file that brief is granted to March 4, 2013. After that date, no further extension will be granted.

S141519**PEOPLE v. HIN (MAO)**

Extension of time granted

Good cause appearing, and based upon counsel Donald R. Tickle's representation that he anticipates filing the appellant's opening brief by the end of June 2013, counsel's request for an extension of time in which to file that brief is granted to April 5, 2013. After that date, only two further extensions totaling about 90 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S158112**PEOPLE v. HAMILTON
(ALEXANDER RASHAD)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to March 29, 2013.

S178239**PEOPLE v. HARRIS (KAI)**

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to April 2, 2013.

S178504**DALTON (KERRY LYN) ON
H.C.**

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender Jolie Lipsig's representation that she anticipates filing the reply to the informal response to the petition for writ of habeas corpus by April 30, 2013, counsel's request for an extension of time in which to file that document is granted to April 2, 2013. After that date, only one further extension totaling about 30 additional days will be granted.

S192701**THOMPSON (CATHERINE)
ON H.C.**

Extension of time granted

Petitioner's request for relief from default is granted.

Good cause appearing, and based upon Assistant State Public Defender Denise Kendall's representation that she anticipates filing the reply to the informal response to the petition for writ of habeas corpus by March 26, 2013, counsel's request for an extension of time in which to file that document is granted to March 26, 2013. After that date, no further extension is contemplated.

S197586**WHEELER (LEROY) ON H.C.**

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Xiomara Costello's representation that she anticipates filing the informal response to the petition for writ of habeas corpus by September 30, 2013, counsel's request for an extension of time in which to file that document is granted to April 2, 2013. After that date, only three further extensions totaling about 180 additional days will be granted.

S199915**CONTRERAS (JORGE) ON H.C.**

Extension of time granted

Good cause appearing, and based upon counsel Barbara Saavedra's representation that she anticipates filing the reply to the informal response to the petition for writ of habeas corpus by September 6, 2013, counsel's request for an extension of time in which to file that document is granted to April 2, 2013. After that date, only three further extensions totaling about 157 additional days are contemplated.

S203744

B231338 Second Appellate District, Div. 8

**PEOPLE v. VARGAS
(DARLENE A.)**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the answer brief is extended to March 6, 2013.

No further extensions will be granted.

S204804**PEABODY (SUSAN J.) v.
TIME WARNER CABLE, INC.**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the answer brief is extended to March 8, 2013.

No further extensions contemplated.

S206771

A133032 First Appellate District, Div. 5

**PEOPLE v. MOFFETT
(ANDREW LAWRENCE)**

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to March 1, 2013.

S208220**CLARK (RAYMOND) v. S.C.
(CITY OF LOS ANGELES)**

Transferred to Court of Appeal, Second Appellate District

The above-entitled matter is transferred to the Court of Appeal, Second Appellate District.

S208306**JACKSON (BERNARD) v. S.C.
(PEOPLE)**

Transferred to Court of Appeal, Second Appellate District

The above-entitled matter is transferred to the Court of Appeal, Second Appellate District.

S208309**ADAMS (ALVAN A.) v. S.C.
(PEOPLE)**

Transferred to Court of Appeal, First Appellate District

The above-entitled matter is transferred to the Court of Appeal, First Appellate District, for consideration in light of *Hagan v. Superior Court* (1962) 57 Cal.2d 767. In the event the Court of Appeal determines that this petition is substantially identical to a prior petition, the repetitious petition must be denied.

**SUPREME COURT MINUTES
TUESDAY, FEBRUARY 5, 2013
SPECIAL SESSION – UNIVERSITY OF SAN FRANCISCO
SCHOOL OF LAW
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened for its special session at McLaren Conference Center, at the University of San Francisco, 2130 Fulton Street, San Francisco, California, on Tuesday, February 5, 2013, at 10:15 a.m.

Present: Chief Justice Tani Cantil-Sakauye, presiding, and Associate Justices Kennard, Baxter, Werdegar, Chin, Corrigan, and Liu.

Officers present: Frank A. McGuire, Clerk; Jorge Navarrete, Assistant Clerk Administrator; and Gail Gray, Calendar Coordinator.

S198638 City of Riverside, Plaintiff and Respondent,
 v.
 Inland Empire Patients Health and Wellness Center, Inc. et al.,
 Defendants and Appellants.

Cause called. J. David Nick argued for Appellants.
Jeffrey V. Dunn argued for Respondent.

Mr. Nick replied.
Cause submitted.

Court recessed until 1:00 p.m. this date

Court reconvened pursuant to recess.
Members of the court and officers present as first shown.

S200158 The People, Plaintiff and Appellant,
 v.
 Wesley Cian Clancey, Defendant and Respondent.

Cause called. Dallas Sacher, Sixth District Appellate Program,
argued for Respondent.

Laurence K. Sullivan, Office of the Attorney General, argued for Appellant.

Mr. Sacher replied.
Cause submitted.

S030553

The People, Respondent,
v.
George Brett Williams, Appellant

Cause called. Daniel Abrahamson, Court-appointed Counsel, argued for Appellant.
Stephanie A. Miyoshi, Office of the Attorney General, argued for Respondent.

Mr. Abrahamson replied.
Cause submitted.

Court adjourned.

***SUPREME COURT MINUTES
TUESDAY, FEBRUARY 5, 2012
SPECIAL SESSION
UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened for a special session at the University of San Francisco School of Law, 2130 Fulton Street, McLaren Conference Center (Rooms 250-251), San Francisco, California, on February 5, 2013.

Present: Chief Justice Tani Cantil-Sakauye, presiding, and Associate Justices Kennard, Baxter, Werdegar, Chin, Corrigan, and Liu.

Officers present: Frank A. McGuire, Clerk, Jorge Navarrete, Assistant Clerk, and Gail Gray, Calendar Coordinator.

CHIEF JUSTICE CANTIL-SAKAUYE: Good morning and welcome to this special session of the California Supreme Court. Holding oral arguments on the fine campus of the University of San Francisco is not our traditional venue, of course. But we regularly bring our court hearings to communities around the state because we are committed to informing Californians about their courts and about the role of the judiciary in our democracy.

I would like to begin by introducing my colleagues on the bench. They are seated in order of seniority, alternating between my right and left. To my immediate right is Justice Joyce Kennard; next to Justice Kennard is Justice Kathryn Werdegar, and next to her right is Justice Carol Corrigan.

To my left is Justice Marvin Baxter. Next to Justice Baxter is Justice Ming Chin — a proud alumnus of the University of San Francisco School of Law — and seated to his left is Justice Goodwin Liu.

Also with us today, seated at the table, is the court's very able Clerk/Administrator, Frank McGuire, who joined the court last year.

Our special session today marks the beginning of a month-long effort to bring awareness of the third branch of government to students and citizens throughout the state. Tomorrow we hold another special session in our traditional venue, at our San Francisco chamber, in front of more than 100 students and faculty from Sacramento's McClatchy High School — my alma mater. Later this month, I plan to visit Balboa High School in San Francisco, Sutter Middle School in Sacramento, and the University of La Verne College of Law in Ontario. On February 28th, I am holding a civics-learning summit in Sacramento with retired U.S. Supreme Court Justice Sandra Day O'Connor.

My colleagues and I pursue these opportunities to engage our communities because we believe that the strength of our democracy depends upon the public's recognition of the interrelationship and independence of the three branches of government. I want to thank those who are watching or listening to the court today because your participation is crucial to the success of our democracy.

I would like to ask our court's USF alum, Justice Chin, to say a few words and to introduce Dean Brand. But before I do I want to commend the law school's commitment to diversity — I read on your Web site that 53 percent of the fall class of 2012 are women and 46 percent are students of color. This gives you yet another reason to be a proud alum. Justice Chin?

JUSTICE CHIN: Thank you Chief. USF is just trying to reflect the wonderful diversity on the California Supreme Court. USF Law School was founded in 1912. This special session is part of a year-long celebration of our 100th anniversary. I have many fond memories of my seven years here on the hilltop. Actually I was with the Jesuits for eleven years and I am deeply grateful that they were outstanding teachers in every possible way. I am grateful for the training, for the guidance and for the values centered on education that they gave me. Many of them are still close personal friends. Father John Musciavo, the current chancellor and former president blessed my marriage when I married my wife, Carol, 41 years ago. Only two weeks ago, our current president, Father Steven, baptized my grandson, Nolan Ming.

I am deeply grateful to all of my professors here at USF for being such terrific role models and for being such an important part of my life and my career. I shared with my colleagues the fact that I was actually an "RA" in this building. It was then called Phelan Hall. This was the cafeteria. I had many awful meals in this room. Being an RA meant that I was able to support myself through law school through that endeavor and it meant supervising about 80 undergraduates, mostly freshmen. Now think back to what you were like when you were a freshman. It was a daunting task. The night before my torts final, I was awakened at 2:00 a.m. to find some of my charges had stuffed the room next door full of newspaper. I was not pleased. I don't tend to hold a grudge but, Larry Silva, if you are out there, I hope that you don't have any matters on the court calendar today.

It is now my pleasure to introduce the seventeenth dean of the USF law school. Jeff Brand is a graduate of Justice Werdegarr's alma mater, the University of California at Berkeley, both undergraduate and law school. But after Jeff received his J.D. degree, he was a Robin's Fellow under the guidance of his mentor, professor and former Supreme Court Justice Frank Newman. In 1986, Jeff came to USF to teach. Jeff is a wonderful and talented teacher. And it is reflected by the fact that his students selected him as the USF distinguished professor an unprecedented four times.

Many years ago, Jeff and I served on a Dean's search committee and when I suggested that Jeff submit his name, Jeff said, "Perhaps at some future date." Fortunately that date came in 1999. In his 13 years as dean, just as I predicted, Jeff has been a superb leader of the law school. He has raised it to new heights. He completed the Dorraine Zief Library, oversaw the renovation of Kendrick Hall, and has truly reenergized the faculty. Unfortunately for USF, Jeff has chosen to retire. His wife Sue confided to me at lunch last Sunday that she hopes that during his year-long sabbatical, they will be able to do some traveling. I could share with you some of the anecdotes about that, but these might be on the minutes of court, so perhaps I should forego those stories. Today, I would like to publicly thank Jeff for his truly remarkable service to the University. It gives me great pleasure to introduce to the court, and all of you, my good friend Dean Jeffrey Brand. Jeff.

DEAN BRAND: Thank you Justice Chin. I'm humbled, thank you. Chief Justice Cantil-Sakauye, Justice Kennard, Justice Baxter, Justice Werdegarr, Justice Corrigan, Justice Liu, and our beloved Justice Chin, who we proudly claim as our own, continues a tradition that includes Matthew Sullivan, the first dean of USF, who became Chief Justice in 1914. His brother, Jeremiah Sullivan, who helped found the law school, was appointed to the court in 1927. And yet another Sullivan, this time unrelated, Justice Raymond Sullivan, was a 1930 graduate of the law school who served on the Supreme Court.

We welcome the court to the University of San Francisco. At the outset, I want to thank Frank McGuire, Jorge Navarrete and other dedicated staff of the court, the law school and the university who make today possible. We are honored and humbled that you have chosen to hold a special session at the university in celebration of the law school's 100th birthday. Bringing together law students, law faculty, members of the university leadership team, undergraduate students and faculty, high school students, members of our profession and citizens of our community.

Regardless of the school we attend, the discipline we teach, or the reason that brings us to this courtroom today, we all share the same stake in the fair and equitable administration of justice which the courts of our state guard so vigilantly. What we have the privilege of witnessing today is not just about the law school. It's about all of us, how we relate to one another, how we treat one another, and how society balances competing interests for the benefit of all. We thank you deeply for providing us with a glimpse into how the state's highest court seeks to ensure equal justice under the law and doing so in the community in which we work and in which we teach. May I please the court, I would like to make just two additional brief points.

First, I would be remiss if I did not say a word about the University of San Francisco School of Law in this, our centennial year, and its eloquent and powerful mission to pursue justice and change the world from here. We take those words seriously. We have an abiding belief that the privilege of studying and teaching law brings with it the responsibility to serve others — an ethos that pervades the great Jesuit university of which we are a part. To the refrain that there are too many lawyers in the world, we have an emphatic response: there will never be too many lawyers in the world, so long as they are skilled, ethical professionals in service to others. Advocating for human dignity, fairness and the rule of law with justice.

At USF, as the Chief Justice noted, we are incredibly diverse. Indeed, 41 percent of the students are of color, ranking us the fifth most diverse law school in the United States. Our students understand full well the responsibility that comes with the privilege of a legal education, and they walk the walk. Working hard in their classrooms, while engaging local, national, and international communities. Whether it be serving a meal in the Tenderloin, working with death row inmates in the south, or traveling to New York, Geneva, Haiti, Cambodia, Vietnam, China, Argentina, the Philippines and around the globe to work on law reform and human rights projects. This is what our centennial is really all about. A rededication and recommitment to the principle that bind our law school community.

My second and final thought is an expression of awe and thanks. The work of our courts is astonishing. Your simple description of the court's Web site is remarkable for its breadth and its importance: "The judicial branch of government is charged with interpreting the laws of the state of California. It provides for the orderly settlement of disputes between parties in controversy, determines the guilt or innocence of the accused, and protects the rights of the individuals." Each of those words evokes the power and the importance of the law. And those few sentences express the awesome responsibility that we all share. For legal educators, they are a powerful reminder of what we seek to achieve. To help our students understand what the fair administration of the law is all about and to give them the skills and inspiration to act ethically and tirelessly in pursuit of that goal.

We thank the court for providing yet another opportunity to accomplish that task. Again, welcome to the University of San Francisco. We, indeed, are honored and humbled. Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you Dean Brand for those fine remarks. Congratulations on your centennial and on your well-deserved and bittersweet retirement.

In conjunction with the court's special oral argument session, the briefs relating to the cases the court will be hearing today were posted online along with synopses of the issues and the descriptions of the operations of the California Supreme Court and the State's judicial system so that these materials can be studied ahead of time. Students from Balboa High School, Thurgood Marshall High School, and the USF School of Law were able to review the materials and discuss them. And they will either be here observing our court session, or viewing oral argument on the California Channel which is again, today, broadcasting the proceedings across California.

The vast majority of cases, as many as 98 percent of the nation's legal disputes are resolved at the state court level. The seven justices of our court hope that today's court session will help all of you attain a better understanding of California's judicial system and of the rule of law that protects us all, serving as the cornerstone of our democratic system of government. I expect that someday, students now listening will be at counsel tables prepared to advance the development and understanding of the law. And someday you will be at our seats. I hope that today's session and the varied backgrounds of those of us sitting at this bench serve as an inspiration to let students know that anything is possible.

The California judicial branch is in an extraordinary period of innovation and challenge. Your understanding of California's judicial system and your support of its efforts to improve the public's access to justice will be vital to the success of our efforts.

On behalf of the entire court, thank you once again for inviting us and making today's special session possible. I hope that these proceedings will serve to encourage all of you to learn more about the administration of justice in California and in our nation.

Before proceeding with oral argument in the first case, the court will now take questions from four USF students as well as several students from Balboa and Thurgood Marshall High Schools. We invite the first question at this time. Please come forward to the podium.

STUDENT: Good morning. My name is Jeremy Wong, I am a senior in the Academy at Balboa High School and I have the following question. How does the Supreme Court decide which cases it is going to hear?

JUSTICE CHIN: Well Jeremy that is an excellent question and I am sure all of the attorneys in the room would like to know the answer as well.

We actually spend most of our time deciding what to decide. We meet every Wednesday when we are not in oral argument. It's called the Wednesday conference. We have on that Wednesday conference anywhere between 150 to 300 cases that we have to review to decide what cases we want to take. Now we have what is called "discretionary review." That doesn't mean we get to do whatever we want. It means that we look at the cases very carefully to determine which cases we should take.

Some cases come to us automatically. Some cases come directly to us from the State Bar Court or from the Public Utilities Commission. The most prominent example is whenever there is a death judgment in the trial court, it comes directly to the California Supreme Court. Later this afternoon we have one "automatic appeal," death penalty case, that came directly to the California Supreme Court.

The discretionary review part of the process is our review of the work of the, I think, hundred and six justice on the California Courts of Appeal. We have some specific guidelines that we use when deciding whether or not to grant review. We will sometimes grant review if there is a conflict amongst the Courts of Appeal.

Occasionally, we will take a case when only one Court of Appeal has spoken if it is urgent that the matter be decided. Examples: the marriage cases; Proposition 8, and redistricting. Those cases had to be decided in fairly short order. There is one case on this morning, the medical marijuana case, that did not have a conflict but we saw the litigation down below and we decided to take that case even though there was not a conflict.

Now you may ask yourself how in the world do we go through 150 to 300 cases at one conference. We actually divide the cases between the A list and a B list. The B list are routine cases. In most cases, the A list cases are cases that need some affirmative action on our part; a grant, a grant and hold, a grant and transfer, or perhaps a depublication. Any member of the court can move a case from the B list to the A list, but I learned early on in my tenure with the court, if you move a case from the A list to the B list, you better be prepared to write on the subject matter. I did it once.

The grant and holds are cases that follow a case that we have already granted. So rather than project to the public or attorneys what direction the court might lean in, we might grant and hold and then decide what to do with that case after we decide the main case.

Depublication is something that we do rarely, and one thing that we do not do is decide as established California law by depublishing. If Court A decides it one way, Court B decides it another way, we don't depublish Court A because we favor Court B. We will either grant the case or if there is a correction that can be made we might grant and transfer it back to Court of Appeal.

The Wednesday conference takes place in the Chief's chambers. We sit and vote in the order of seniority. We speak in the order of seniority. The senior justice speaks and votes first, the Chief votes and speaks last. The conference is somewhat formal but also quite relaxed. The formality part, I'll tell you, is that each of our chairs in the Chief's chambers has an engraved nameplate with our names on them just in case we forget about seniority.

We do not grant review in very many cases. I'll give you an example. Last year there were about 5,000 petitions for review; less than slightly over 1 percent were granted. So we are just not able to take a large number of cases. Some people ask, "If there is a conflict, why do you not always take it?" Well that is something that we call "letting it percolate." We want to hear from other courts. Either our Courts of Appeal or other jurisdictions may speak on the matter. If it is a particularly complicated problem and we don't have a ready answer, we hope that by letting it percolate we might have a better informed opinion and perhaps a more enduring opinion. Thank you for your question.

CHIEF JUSTICE CANTIL-SAKAUYE: Next I understand we have a question from a USF law student.

STUDENT: Good morning Chief Justice. Your honors. My name is Lorena Nunez. I am a second year law student at the University of San Francisco School of Law. My question for the court this morning is whether there is any appropriate way in which public opinion affects decision making at the California Supreme Court.

JUSTICE CORRIGAN: I think that's mine. The answer is yes Lorena. In a sense, there is an appropriate role for public opinion to play out when we decide cases because in democracy the law is an expression of the values and the views of the people who enact it.

So when the people of California enact a law, either directly by initiative, and we have quite a robust initiative process here, or indirectly by the representatives in the legislature, they are expressing their collective opinion about what the law ought to be. So when we interpret or apply a law, two of our guiding principles are, "What did the people who enacted mean by the language they used?" and, "What did they seek to accomplish by enacting that law?" So in that sense, we are looking directly back to what the collective view of the people is when the law get passed.

Now there is sometimes, as you know, a conflict among statutes or between statutes and the constitution. Resolving those cases is sometimes a little more contentious because, after all, those are all expressions of the public view. So we know that whenever we decide one of those, some groups of people are going to be a little grumpy. And some groups are going to be pleased. When we have to resolve those kinds of cases, we don't take a poll or read the editorial pages. But we do apply very settled rules of statutory and constitutional interpretation and we don't just get to say, "Well, what the heck, we think we like this outcome." Or, "Had we been in the legislature" or, "When we voted on this when this was on the ballot this is what we thought." But we apply all those principles, that you have spent two years and one more to go, trying to figure out and learn and apply.

But probably the most essential notion that we bring to the table is that we work very hard at remembering that the law doesn't belong to us. The law belongs to all of us. So we try to honor our understanding of the intent of the enactors in that way.

STUDENT: Thank you.

STUDENT: Good morning Chief Justice. Your honors. My name is Francesca Chang and I am a third year law student at the University of San Francisco School of Law. My question for the court is, "How much or how often do oral arguments impact your decision-making process?"

CHIEF JUSTICE CANTIL-SAKAUYE: Justice Kennard?

JUSTICE KENNARD: Thank you Chief. Francesca, I have a feeling that the attorneys about to argue the case before us will try to get some points from my answer.

Occasionally, oral argument in our court can make a difference in the outcome of the case. I'll explain why. Before a case is placed on the court's oral argument calendar, the authoring justice circulates a proposed opinion to which the other justices comment, often quite detailed. They do so in writing, expressing agreement or disagreement with the analysis or solution. Ideally, a proposed opinion has garnered majority support before it is scheduled for oral argument. The existence of a pre-oral argument opinion does not mean that it is set in stone. Far from it. That is why the court refers to the opinion as a tentative opinion, especially in a complex or difficult case.

It is during oral argument that one or more difficult issues can, it is hoped, be fleshed out much better during the colloquy between the court and counsel. In this regard, it is important for counsel to listen carefully to the questions being asked. And to respond candidly in an effort to genuinely assist the court. When the attorneys don't do that, the oral argument can be quite frustrating. I consider oral argument a means of testing the strength or the weakness of the tentative opinion. The best oral advocates can explain the logic of their own arguments and identify the flaws in opposing counsel's argument. Even in easier cases, oral argument can assist in refining the focus of a particular issue. Thereby adding clarity to the analysis and resolution.

I hope Francesca, that my necessarily brief answer has shed a glowworm's glimmer of light on the role of oral argument in our court.

STUDENT: Thank you.

STUDENT: Good morning Chief Justice. Your honors. My name is Greg Queso. I am a second year law student at the University of San Francisco School of Law. I am also here with my appellate advocacy class. My question is, how do you, if at all, seek to persuade your colleagues when you disagree about how a case should be decided?

JUSTICE WERDEGAR: Gregory, I am going to endeavor to answer that question. I like the way it was phrased, “How do we seek, if at all, to persuade our colleagues when we disagree?” I may seek but that doesn’t mean I will succeed.

The justices do discuss cases among themselves, informally, and their staff attorneys do as well. But as Justice Kennard referenced, we start out with a written product, and so much of our persuasive efforts are put in writing. We start out with what we call, as Justice Kennard referenced, a draft opinion called a calendar memo, which means that you circulate it and people have weighed in on it before oral argument.

So we all have calendar memos in front of us for each case. If I am the authoring justice of that calendar memo, I put out the issue, the parties’ arguments, the statutory law that applies, my analysis and my conclusion. I have to circulate it and, as Justice Kennard referenced, every other justice has to weigh in, and in the unhappy even they disagree, they cannot just say “disagree.” As Justice Kennard mentioned, they have to write extensively. So I hope that everybody agrees and that is the end of it. But seldom is that the case. When I get the disagreements I think, “Well they misunderstood,” or, “they do not know the law.” So what I might do at that time is circulate another memo, this time maybe with italics, explaining to them why they didn’t grasp the validity of my point of view. That being done, and you having everyone weighing in on the case, we do schedule it for oral argument.

Oral argument is the time when my last line of defense is to pose questions to counsel designed, in my mind, to elicit answers that will illustrate to my disagreeing colleagues how wrong they are. So that is the task of the attorneys in the event there is a disagreement, which of course they don’t know when they sit out there. But I do try, as I say, to bring forth points about the case — nuances — or drive home the validity of my point.

After oral argument we conference and that is when the die is cast because you see where the votes lie with your colleagues. You are hoping that they all have seen the error of their ways and are saying, “Now I understand and I agree with you.” However, the truth is that with someone who is in disagreement, they also can say “doubtful,” which is a little more hopeful for you. But if they are in disagreement at the beginning, chances are they are going to be in disagreement at the end.

But you should know that many, perhaps one might say even most, of our opinions actually are unanimous, or with maybe one disagreement. We have all thrashed through the issues and we do try to come to an agreement on what the law should be. Thank you.

STUDENT: Thank you.

STUDENT: Good morning Chief Justice. Good morning your honors. My name is Anthony Caruthers and I am a first year student at the University of San Francisco School of Law. My question is what responsibility do you assign to your law clerks and staff attorneys?

JUSTICE LIU: Good morning Anthony. I would be happy to try to answer your question.

Each of us on the California Supreme Court has the pleasure of having five law clerks serve for us. We each have five professional attorneys, essentially, who help us do our work. And the first thing to say about that, I think, is that the relationship between the attorneys and the judge, I think, generally speaking, is a very intimate one. The court is a very small place and we have very close working relationships. So my answer, I'm sure, is going to be slightly different than the answer would be for all of my colleagues just because it's a very intimate relationship and so each justice has their own way they think about their attorneys' roles.

But in all cases, I think it is true that the attorneys are an extension, essentially, of the judge. I think that the work can be grouped into three categories. First of all, the attorneys spend a lot of time helping us review the cases, as Justice Chin said, that the court is going to hear. Processing the hundreds and hundreds of petitions every week requires a lot of input and I assign to my law clerks part of that job. Secondly, once cases have been granted, the law clerks have to take a lot of time to think about those cases, and to analyze each of the granted cases and figure out, make a recommendation, as to how they should come out. Thirdly, each justice has a set of writing assignments. So for the cases that are assigned to that justice, I typically have my law clerks produce a first draft. I am a pretty heavy editor, so they usually produce what I think of as the first and the last draft. It comes to me, I get my hands into it, and they clean it up at the end.

In light of all this work, my desk has a lot of paper that gets higher, higher and higher and I think your question was, "What responsibilities do I assign to them?" In practice, it's a little bit of what responsibilities do they assign to me because they are constantly feeding me material as all of these tasks work their way through the courts.

In addition, like many of my colleagues, I maintain a pretty active calendar of lecture, teaching, speaking and other types of engagements, and I have law clerks help me with some of those tasks to the extent that they are interested and the projects are interesting.

I look for law clerks who are self-starters, people who are broadly interested in the law and people, who are, as much as we are, committed to the impartial administration of justice, and who will take that commitment to the very top of the profession. Thank you.

STUDENT: Thank you sir.

STUDENT: Good morning, my name is Deborah Morales. We are students at Thurgood Marshall High School. I am a junior.

My question is what are some of the challenges facing the judicial branch today?

STUDENT: My name is Douglas Buchanan. I am a senior.

My question is how do you anticipate the judicial branch changing in the next 10 years?

JUSTICE BAXTER: I get two questions. Deborah, I will try to answer your question first.

By far the greatest challenge we face is to secure adequate funding to enable the judicial branch to discharge its constitutional and statutory responsibilities and, more importantly, to provide access to justice to all Californians. As the most populous state in the country, it really should come as no surprise that California has the largest judicial system in the western world. In addition to the seven members that occupy the California Supreme Court, as Justice Chin indicated, there are 106 Court of Appeal justices throughout the state of California and approximately 2,000 judges and subordinate judicial officers who are conducting trials at the trial court level throughout the state of California. So as you can see it is a huge system and it is vitally important that the system be adequately funded.

We are currently facing the greatest funding crisis in my memory and I have a pretty long memory. This is largely due to the recession and economic downturn that we have experienced. It has affected not only the courts but other operations as well. For example, over the past five fiscal years, the judicial branch has experienced permanent, ongoing, budget reductions of \$500 million. And over this same five year period, court user fees, fines and assessments have been increased dramatically. Courthouse construction and other infrastructure funds have been diverted to court operations. And furloughs have been imposed on court employees. All of these efforts were desperate measures in an effort to keep the doors to the courthouses open.

Despite these efforts, courts have closed in many counties. For example, the superior court in my home county of Fresno, because of budget constraints, was forced to close all of the courts outside the City of Fresno. Those who are familiar with that particular county, and the vast size of that county, will appreciate the fact that those residents living on the outlying borders of the county, in areas like Coalinga, Fireball, and Kerman, as a practical matter, do not have access to justice because the cost and the time involved in driving to a court simply precludes access to justice for those Californians. And that's just an example. It is happening in other counties as well.

The bottom line is that we must convince the Legislature and the Governor that we are a separate and co-equal branch of government and that we must be adequately funded and we must be in a condition to discharge our constitutional and statutory responsibilities. I might add that the task becomes even more difficult and challenging as less lawyers occupy seats in our Legislature.

At the same time, the judicial branch must make every reasonable effort to do more with less. To do so through technology and other efficiency measures. For example, the Judicial Council recently passed a pilot project permitting the superior court in Fresno to have remote video arraignments and trials in traffic infraction cases. This very modest project will provide some measure of access to justice by those living near the outskirts of Fresno County.

And Frankly, I anticipate that the greatest change to the judicial branch in the next ten years will be that judges at all levels will better reflect the composition of the population at large.

When I was in law school in the early 1960's, there were very few women and very few minorities in our class. Contrast that with the diversity reflected here at USF Law School, and with law schools throughout the nation. The opportunities simply were not there in the 1960's. We are all familiar with Justice Sandra Day O'Connor, who graduated near the top of her class at one of the top universities, one of the top law schools, in the nation, Stanford. When she interviewed with a major law firm in California, she was offered a secretarial job, not as an associate in the firm. Of course, she went on to serve as a distinguished member of our United States Supreme Court.

But times have changed. Today, women account for 50 percent and sometimes more of the law school class and as more women and minorities become members of the bar, their numbers as judicial officers will naturally increase and will better reflect the rich diversity of our state. Thank you for both questions.

STUDENT: Good morning. My name is Crystal and I am a senior at Balboa High School in the Law Academy. My question is how do you balance work and family time?

CHIEF JUSTICE CANTIL-SAKAUYE: Thank you Crystal. I'll take that question. But ringing in my ears is the objection: assuming facts not in evidence, lack of foundation, counsel rephrase the question.

I'm going to borrow a page out of, I think it was, Greg's question, that is how do I *seek* to balance work and family time. The short answer is that on any given day it is a work in progress. I have two children, two teenage girls both in high school, and I live between two cities, Sacramento and San Francisco. Thankfully, due to technology, the world is "24/7" and there are no longer chamber office hours that are existing as a limitation.

But I will say that for the balance that I seek, that all of you seek, that your parents seek, that every attorney here at the counsel tables seeks, at least for me, is a blend of principles, and the biggest principle is a reality check. Twenty-four hours, seven days a week, requiring priorities, and the knowledge that you can have it all, but just not all at the same time. So that means that there have to be priorities and the priorities are like seasons in your life.

When I was much younger and I worked in the Governor's Office — when Justice Baxter was second-hand to George Deukmejian, then Governor, it would not be unusual to be at work for me in the "Leg. Unit," or the Legal Unit, at 3:00 or 4:00 in the morning because of the hours kept by the Legislature. In time that changed, my priorities changed, as a result of wanting a family later in life and deciding, that, for me at least, it meant that I would rather give baths than go to the inn of court. It meant for that season a reshuffling of priorities knowing that, in time, there would be an opportunity to do more given the shuffle of priorities.

I'd also say that the biggest task to balance, whether it is professional or family or both, is really planning and multitasking and using your time wisely. Without technology, frankly, I don't know how anyone could have done this job five years ago. I just don't see it. I know, when I drive to Sacramento on the I-80 corridor, every single place that my phone and my iPad drops. Everyone I talk to in chambers and across the state knows when Chief Justice Cantil-Sakauye is in Dixon because she has lost contact on her phone. So I tell you it is multitasking.

The other value is really that it does take a village. It could not happen without my husband, without family, without all the great lawyers who assist on all the issues, and without tremendously brilliant justices who all look at the issues together. It really is a symbiotic relationship and on some days there are some things and some moments that actually resemble balance. Then quickly it turns back into a see-saw.

So I wish you the best and it is a constant endeavor. The last part is you should have a lot of humor and not be too hard on yourself. Thank you.

STUDENT: Thank you.

CHIEF JUSTICE CANTIL-SAKAUYE: I want to thank each of the students who formulated questions and addressed them to the court. They were excellent questions and hopefully our responses provided some insight into the workings of our court system. The justices appreciate your participation and that of the faculty members and attorneys who assisted in the program today. The Reporter of Decisions is directed to capture these special proceedings on the minutes so that they will be included in the Official Reports of the decisions of this court.